IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 19828 of 2005(I)

AGAINST THE ORDER IN OS 309/ 1999 IN
EP.111/2001 of MUNSIFF COURT, KALPETTA

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PETITIONERS:

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1. A.P. SWAMINATHAN, S/O. VELAYUDHAN
   ROSHNA NIVAS, MEPPADI P.O., WYNAD.

2. PHILOMINA FRANCIS, W/O. SWAMINATHAN,
   ROSHNA NIVAS, MEPPADI, MUPPAINAD AMSOM, WYNAD.

BY ADV. SRI.P.RAMAKRISHNAN
SMT.PREETHI KESAVAN

RESPONDENTS:

DIVISIONAL MANAGER, LIFE INSURANCE
CORPORATN OF INDIA, KOZHIKODE.

BY ADV. SRI.S.EASWARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC NO.19828/05)

PETITIONERS' EXT.:

EXT.P1: TRUE COPY OF ORDER PASSED BY THE COURT OF MUNSIFF, KALPETTA IN E.P NO.111/01 IN O.S.309/99.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.19828 of 2005

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Dated: 5th June, 2007

JUDGMENT

The judgment-debtors in a proceeding for execution initiated for recovery of a sum of Rs.73,837.60 due to the respondent, the L.I.C. of India under a money decree are the petitioners in this Writ Petition. The impugned order is Ext.P1 by which the contentions raised by the petitioners regarding the attachability and saleability of the properties belonging to the petitioners are repelled. I find that in Ext.P1 itself the court below has noticed that O.P.No.14214/02 was filed by the very same petitioners earlier and the same was disposed of directing the petitioners to deposit the entire balance amount within 5 months failing which execution proceedings will revive. At the outset I must say that there is no warrant for correcting Ext.P1 in the visitorial jurisdiction of this court under Article 227 of the Constitution. As rightly submitted by the counsel for the respondent the stay which was initially granted by this court subject to the condition that the petitioners pay Rs.25,000/- towards the decree debt and was extended till 14.12.2005, has not been extended so far. Smt. Preethi Ramakrishnan, learned counsel for the petitioners is not in a position to inform whether the amount ordered to be paid within

one month from 1.7.2005 has been paid. But according to me the above condition was not complied with by the petitioners since it is the submission of learned counsel for the respondent that recently the petitioners issued cheque for an amount of Rs.75000/- to the respondent and that cheque bounced. I find that the petitioner is not eligible for the reliefs sought for. However on considerations of indulgence, the impugned order will be kept in abeyance for a period of six weeks from today. It is open to the petitioners to settle the dispute with the respondent-Corporation in the meanwhile. If the issue is not settled within the aforesaid period of six weeks, the execution court will be justified in taking coercive steps against the petitioners for compelling recovery.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**